

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ERIC SANTANA

Plaintiff,

Case No.: 1:21-cv-10520

- against -

NYC MOTORCARS CORPORATION

and

FAWAD AWAN

Defendants.

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DECLARATION OF
ERIC SANTANA IN SUPPORT
MOTION FOR DEFAULT
JUDGMENT

I, Eric Santana, declare under penalty of perjury pursuant to 28 U.S.C. § 1746, that the following is true and accurate:

1. I am the Plaintiff in the above-captioned action, and I have personal knowledge of the matters of the facts set forth herein.

2. I am a resident of New York, New York.

3. I was employed by Defendant NYC Motorcars Corporation, from September 23, 2021, until October 28, 2021.

4. Defendant NYC Motorcars Corporation is a business operating as a car dealership located at 3748 Boston Rd, The Bronx, NY 10469.

5. Defendant NYC Motorcars Corporation had the power to hire and fire me, control the terms and conditions of my employment, and determine the rate and method of my compensation.

6. Throughout my employment, I was employed in the position of Car Salesman.

7. In this position, I sold cars to customers in my employer's indoor and outdoor showrooms.

Exhibit B

8. During my employment, I observed that Defendant NYC Motorcars Corporation engaged in interstate commerce and did a level of business such that it had annual sales of at least \$500,000.

9. During my employment, I regularly worked in excess of 40 hours per week.

10. I was assigned a work schedule of Tuesday through Friday: 9 AM – 5 PM; Saturday 9 AM – 9 PM; and every other Sunday: 11 AM – 6 PM. Pursuant to this schedule I worked alternating weeks of 44 hours per week and 51 hours per week.

11. At the time I was hired I was verbally told that I would be paid an hourly rate of \$15.00 per hour, the applicable minimum hourly rate required by law, plus commission. I was told I would receive 10% commission on each car I sold.

12. At the time I was hired I was not given a written wage statement that explained my hourly rate of pay, overtime rate of pay, or regular pay day.

13. During my employment with Defendant NYC Motorcars Corporation I sold 5 cars priced at \$20,000 each.

14. While employed by Defendant NYC Motorcars Corporation, I was not paid my hourly rate for each hour worked, overtime wages, commissions, or spread of hours pay.

15. While employed by Defendant NYC Motorcars Corporation, I was only paid twice, both times via CashApp. I was paid \$331.80 on September 30, 2021, and \$331.80 again on October 22, 2022. True and accurate copies of the CashApp payments are attached hereto and incorporated herein as Exhibit B(3).

16. I was not paid the applicable minimum wage for all hours I worked, overtime premiums for the hours I worked in excess of 40 in a workweek, spread of hours pay for my work shifts that lasted longer than 10 hours, or my earned commissions.

17. I did not receive payroll records or paystubs when these payments were made.

18. I made several complaints to Defendant NYC Motorcars Corporation that I believed their nonpayment of my earned wages and commissions violated wage and hour laws. These complaints were ignored.

19. I was terminated on October 28, 2022, shortly after I elevated my complaints to Defendant NYC Motorcars Corporation's Finance Manager. My termination was in retaliation for my complaints about Defendant NYC Motorcars Corporation's unlawful pay practices.

20. My termination was in retaliation for my complaints about my employer's unlawful pay practices and policies.

21. I did not receive written notification of my termination, nor did I receive my final paycheck from Defendant NYC Motorcars Corporation.

22. Since my termination, I have struggled to find comparable employment.

23. I remained unemployed for approximately 21 weeks.

24. During this time, I made diligent efforts to find comparable employment. True and accurate copies of the records of 35 job I have applied to are attached hereto and incorporated herein as Exhibits B(1) and B(2) respectively.

25. I obtained employment with Eastchester Chrysler Jeep for a two-week period where I earned approximately \$978.

26. I respectfully submit this declaration in support of my motion for Default Judgment.

New York, New York

Apr 16, 2022


Eric Matthew Santana (Apr 16, 2022 16:08 EDT)

Eric Santana - Plaintiff